

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ADVANCE MAGAZINE
PUBLISHERS, INC. d/b/a Conde
Nast,

Plaintiff,

v.

Case No: 2:20-cv-193-FtM-38NPM

CHIC USA, INC.,

Defendant.

ORDER

Before the Court is Plaintiff's Motion for Entry of Clerk's Default. (Doc. 7). Plaintiff requests the Court enter a default against Defendant Chic USA, Inc. for its failure to plead or otherwise defend. Defendant did not respond to the motion and the time to do so has lapsed. As set forth below, the Court grants the motion.

"When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Fed. R. Civ. P. 55(a). Before directing the clerk to enter a default, however, the Court must determine whether Plaintiff properly effected service of process, for which Plaintiff bears the burden of proof. Fed. R. Civ. P. 4(l); *Chambers v. Halsted Fin. Servs., LLC*, No. 2:13-CV-809-FTM-38, 2014 WL 3721209, at *1 (M.D. Fla. July 28, 2014); *Zamperla, Inc. v. S.B.F. S.R.L.*, No. 6:13-CV-1811-ORL-37, 2014 WL 1400641, at *1 (M.D. Fla. Apr. 10, 2014).

Pursuant to Rule 4(h)(1)(B), an entity defendant may be served by any manner authorized in the state or "by delivering a copy of the summons and of the complaint to

an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process” *Chambers*, 2014 WL 3721209, at *1 (M.D. Fla. July 28, 2014). Likewise, under state law, a corporation may be served through its registered agent. Fla. Stat. § 48.081(3)(a). And § 48.081(3)(a) also provides that a person attempting service may serve process on any employee of the registered agent on the first attempt at service. *Id.*

Here, Plaintiff served Defendant by serving an employee of its Registered Agent Northrop Financial Group, LLC. Thus, the Court finds Plaintiff properly effected service of process. Defendant has failed to answer or otherwise defend this action, and the Court therefore finds a clerk’s default must be entered pursuant to Rule 55(a).

Accordingly, it is hereby **ORDERED**:

(1) Plaintiff’s Motion for Entry of Clerk’s Default (Doc. 7) is **GRANTED**.

(2) The Clerk of Court is directed to enter a default against Defendant Chic USA, Inc.

DONE and **ORDERED** in Fort Myers, Florida on May 29, 2020.



NICHOLAS P. MIZELL
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties